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10/606,503	06/26/2003	Jeyhan Karaoguz	14046US02	5221
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EXAMINER				
WONG, BLANCHE				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/606,503

Applicant(s)

KARAOGUZ ET AL.

Examiner

Blanche Wong

Art Unit

2419

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Arguments***

1. Applicant's arguments filed 1-25 have been fully considered but they are not persuasive.
2. Applicant amended the claims with the limitation "said at least one access device not co-located with said at least one of a plurality of access points". However, such a limitation does not put the application in condition for allowance. The term "not co-located" can be interpreted broadly as said at least one access device is not the same as said at least one of a plurality of access points, or not one of the same device, or not on the same premise. Examiner has shown two devices, such as WAP device and remote device respectively, and separate devices. Therefore, the WAP device does not co-locate with the remote device.
3. With regard to claim 1, Applicant states that "Garces does not disclose or suggest at least the limitation of 'receiving a response from said at least one of a plurality of access points, said response reporting a presence of at least one access device located within a coverage area of said at least one of a plurality of access points'" Remark, p.13, para. 2. Applicant also states that "the synch response 216 does not reporting back to the remote device K1 110 a presence of at least one access device located within a coverage area of the WAP device L1 130. Remark, p.14, para. 1. Examiner has shown at least one form of reporting back using the sync response and at least one presence of access device, namely WAP device. If Applicant is

arguing a form/type of reporting back or more than one presence of access device, such a limitation is not found in the claims. Therefore, rejections maintain.

4. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a form/type of reporting back or more than one presence of access device) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

5. Applicant states that "[t]he issue here is whether or not the sync response contains information and is reporting a presence of an access device that is located within the coverage area of the WAP device L1 130. Remark, p.11, para. 1. Examiner has shown at least one form of reporting back using the sync response and at least one presence of access device, namely WAP device. Again, if Applicant is arguing "reporting back" is e.g. a message contains information, such a limitation is not found in the claim. If Applicant is arguing the presence of another access device, other than the access device that is performing the method of claim 1 (including broadcasting, receiving, and requesting), such a limitation is not found in the claim.

6. By having the WAP device responds to the remote device, it is inherent that the presence of the WAP device is known to the remote device. The claim language does not differentiate between different WAP devices and their presence but rather limits it to only one device and therefore only one response is necessary to equate "presence".

7. As Applicant points out, "claims 7,13,19,23 are similar in many respects to the method disclosed in independent claim 1." Remark, p.12, para. 3. Please see comments for claim 1.
8. Claims 2-6, 8-12,14-18,20-22,24-25 depend from independent claims 1,7,13,19,23.

***Specification***

9. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The title discloses link layer and wired/wireless. However, claim limitations, especially in the body of the independent claims, do not recite or relate or include link layer or wired/wireless.

***Claim Rejections - 35 USC § 102***

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. **Claims 1-25** are rejected under 35 U.S.C. 102(b) as being anticipated by Garces et al. (U.S. Pat NO. 6,445,688).

With regard to claims 1,7,13,19,23, Garces discloses

broadcasting (**broadcasts**) at least one discovery message (**a batch of synchronization**) to at least one of a plurality of access points (**WAP device L1 130**) (**“Remote device K1 110 broadcasts a batch of synchronization ... 212 and 212 to ...WAP device L1 130”, col. 4, lines 27-30**) (**See Also arrows from remote device K1 110 to WAPs in Fig. 1**);

receiving a response (**a sync response**) from said at least one of a plurality of access points (**WAP device L1 130**), the response reporting a presence of at least one access device (**indicating WAP device 130 can send information**) located within a coverage area (**see Fig. 1**) of said at least one of a plurality of access points (**WAP device L1 130 after receipt of a broadcast sync packet 212 from remote device K1 110 sends back a sync response 216 indicating WAP device 130 can send information to remote device K1 110, col. 4, lines 33-38**), said at least one access device not co-located with said at least one of a plurality of access points (**the WAP device and remote device are two separate devices and thus not co-located**); and

requesting from said at least one of a plurality of access points (**requesting from the WAP device**) (e.g. **WAP device L1 130**), a status (**CQM session**) of said at least one access device located within said coverage area (**see Fig. 1**) of said at least one of a plurality of access points (**“The CQM session is initiated by the remote device requesting from the WAP device”, col. 4, lines 66-67**).

With regard to claims 2,8,14,20,24, Garces further discloses

sending **(remote device K1 110)** at least one status request message **(CQM request)** to said at least one of a plurality of access points **(WAP device L1 130)** **(CQM request 310 from remote device K1 110 to WAP device L1 130 in Fig. 3, col. 5, lines 20-21)** **(See Also “The CQM session is initiated by the remote device requesting from the WAP device”, col. 4, lines 66-67).**

With regard to claims 3,9,15,21,25, Garces further discloses receiving from said at least one of a plurality of access points, said at least one status reply message **(M1 CQM Packets from WAP Device L1 130 to remote device K1 110 in Fig. 3, col. 5, lines 27-28)** indicating said status of said at least one access device **(M1 CQM Packets contains RSSI information, col. 5, line 10)** **(RSSI is the signal strength between the access point and access device).**

With regard to claims 4,10,16,22, Garces further discloses a messaging protocol message **(M1 CQM Packets contains RSSI information, col. 5, line 10).**

With regard to claims 5,11,17, Garces further discloses broadcasting **(broadcasts)** from a switch **(remote device K1 110)** **(See Also remote network device, col. 3, line 8)** **(“Remote device K1 110 broadcasts a batch of synchronization ... 212 and 212 to ...WAP device L1 130”, col. 4, lines 27-30).**

With regard to claims 6,12,18, Garces further discloses broadcasting only to access points (**WAP devices in Fig. 1**) located in a particular subnetwork (**Fig. 1 is a subnetwork**) ("**Remote device K1 110 broadcasts a batch of synchronization ... 212 and 212 to ...WAP device L1 130**", col. 4, lines 27-30).

With regard to claims 7-12, Garces further discloses a computer program (**pseudocode, col. 6, line 56**).

With regard to claims 19-25, Garces further discloses processors (**remote devices and WAP devices in Fig. 1**).

### ***Conclusion***

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Blanche Wong whose telephone number is 571-272-3177. The examiner can normally be reached on Monday through Friday, 830am to 530pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edan Orgad can be reached on 571-272-7884. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Blanche Wong/



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Examiner, Art Unit 2419

May 8, 2009

/Edan Orgad/

Supervisory Patent Examiner, Art Unit 2419